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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-19

INTER-CONTINENTAL PROMOTIONS, INC.,

Petitioner,

vs.

MIAMI BEACH FIRST NATIONAL BANK, and FRED B. BAISDEN, as executors of the Last Will and Testament of W. B. MacDonald, Jr., deceased, and NEW AMSTERDAM CASUALTY CO.,

Respondents.

PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

HANSFORD H. TYLER, JR. and
DAVID D. PHILLIPS
HORTON & SCHWARTZ
410 Concord Building
Miami, Florida 33130

WILLIAM R. MING, JR.
ALDUS S. MITCHELL
SOPHIA H. HALL
ANDREW M. RAUCCI
110 S. Dearborn Street
Chicago, Illinois 60603

Counsel for Petitioner

MIDWEST LAW PRINTING CO., CHICAGO 60601, FINANCIAL 6-3988

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INTRODUCTION.

On or about October 12, 1971, this Court denied a petition for certiorari to review a decision in this cause by the United States Court of Appeals for the Fifth Circuit, 441 F. 2d 1356.[1] In accordance with Rule 58 of the

[1] That opinion and another previous opinion by the same court in this cause, 367 F. 2d 293 (1966), are set forth in full in the petition for certiorari and have not been duplicated in this petition.

Rules of this Court, petitioner sometimes hereinafter called plaintiff, respectfully submits this petition for rehearing of that petition based upon a substantial ground available to petitioner although not previously presented.

In essence, that ground is that the decision of the court below deprives plaintiff of the right guaranteed by the constitution and laws of the United States to have this controversy resolved in accordance with the law of the State of Florida, *Erie R. Co.* v. *Tompkins,* 304 U.S. 64, 58 S. Ct. 817 (1938), and that because resolution of the controversy here depends upon Florida law based on statutes, rules of decision, municipal ordinances, and administrative regulations, all of which are complicated and in the main have not been construed by Florida appellate courts, this may be a case peculiarly appropriate for the application of the "abstention" doctrine of this Court. See *Askew* v. *Hargrave,* 401 U.S. 476, 91 S. Ct. 856 (1971); *Jackson* v. *Ogilvie,* 401 U.S. 904, 91 S. Ct. 642 (1971); *Fornaris* v. *Ridge Tool Co.,* 400 U.S. 41, 91 S. Ct. 156 (1970); and *Reetz* v. *Bozanich,* 397 U.S. 82, 90 S. Ct. 788 (1970). This is particularly true where, as here, as this Court pointed out in *Clay* v. *Sun Insurance Office, Ltd.,* 363 U.S. 207, 212, 80 S. Ct. 1222, 1226 (1960):

> "The Florida legislature, with rare foresight, has dealt with the problem of authoritatively determining unresolved state law involved in federal litigation by a statute which permits a federal court to certify such a doubtful question of state law to the Supreme Court of Florida for its decision. Fla. Stat. Ann., 1957, §25.031."[2]

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[2] A copy of that statute is appended hereto marked Appendix A, together with a copy of Rule 4.61 of the Florida Appellate Rules, Certified Questions from Federal Courts, marked Appendix B.

STATEMENT OF FACTS.

Petitioner entered into a written contract on December 19, 1963, with William B. MacDonald, Jr., (hereinafter sometimes called defendant) under the terms of which plaintiff was to produce Sonny Liston and Cassius Clay in Miami Beach for a boxing exhibition and the defendant was:

> ". . . to promote said boxing contest in the manner he deems fit; to print and sell admission tickets thereto; to collect the proceeds of ticket sales; to arrange all seatings; to make whatever arrangements he deems necessary for the press; to pay all local, state, and federal taxes on admissions; to arrange and pay for the undercard preliminary fights; to pay all fees and expenses of the controlling boxing commission; to advertise and promote said live gate; to make press releases; and, to do any and all things of that kind and nature reasonably necessary for the enhancement of said live gate." * * * (App. 8).[3]

Florida Annotated Statutes, Chapter 548, "Pugilistic Exhibitions," provides in pertinent part:

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[3] In this petition for rehearing, references will be made to the appendix in the court below so designated. It appears that on the application of counsel for the respondent that appendix was filed with this Court on or about July 23, 1971. With the hope that it will further facilitate this Court's consideration of this petition, some significant portions of the record have been reproduced as appendices to this petition and are attached hereto.

"548.01 Prize Fighting, Pugilistic Exhibitions: Penalty

Any person who shall voluntarily engage in any pugilistic exhibition, fight or encounter, with or without gloves, between man and man, or in an exhibition or fight between man and bull, or between man and any other animal, for money or anything of value, or upon the result of which any money or anything of value is to be collected, acquired, bet or wagered, or to see which any admission fee is charged, directly or indirectly, shall be punished by a fine of not less than two thousand five hundred, nor more than five thousand dollars, or by imprisonment for not more than five years."

* * * * *

"548.03 Pugilistic Exhibition Defined

By the term "Pugilistic exhibition, encounter or fight, with or without gloves," as used in this chapter, is meant any voluntary fight or personal encounter, by blows, between two or more persons, for money, prize of any character, points, distinction or fame, or other thing of value, or upon the results of which any money or thing of value is bet or wagered, or for which an admission fee is charged, directly or indirectly; provided, that nothing contained herein or in any law or municipal regulation shall be construed as applying to boxing exhibitions held by and under the auspices of the American legion, disabled American veterans, veterans of foreign wars of the United States, Spanish-American war veterans, or companies or detachments of the Florida national guard, Y.M.C.A., junior chamber of commerce, or any college which is a member of any recognized amateur athletic association and the Circulo Cubana club, a charitable organization now in existence, whether an admission fee is charged or not; provided further, that nothing contained herein shall be

construed to prohibit any municipality from exercising its police powers to regulate boxing and wrestling exhibitions held under the auspices of the above named organizations."

Pursuant to that statutory authority, the City of Miami Beach, Florida, on or about January 25, 1935, created the Miami Beach Boxing Commission which has remained in existence and has exercised the authority vested in it continuously since that time. At all of the times material herein, Article II of Chapter 27 of the Miami Beach City Code, "Boxing and Wrestling," a copy of which is attached hereto marked Appendix C, has been in full force and effect. The Boxing Commission appointed in accordance with the terms of that Miami Beach ordinance adopted rules and regulations effective April 1, 1960. A copy of the relevant portion of those rules and regulations is attached hereto marked Appendix D.[4]

The contract between plaintiff and defendant, as well as every detail of the presentation of this boxing match was under the closest, continuous scrutiny of the Miami Beach Boxing Commission which approved the exhibition, the promoter, and every step in the promotion before it was taken, and approved the whole after the match. See e.g., attached hereto as Appendix E, extracts from Miami Beach Boxing Commission minutes, Exhibit 7, App. 113-129. In addition, the State's Attorney of Dade County, Florida, in which the City of Miami Beach is located, conducted an independent investigation of the match and concluded that there had been no violation of the law of Florida.

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[4] These Florida statutes, municipal ordinance, and administrative regulations are part of the record in this cause, Exhibit 5, App. 73-113.

It is uncontradicted that on demand defendant refused to pay the plaintiff approximately $400,000.00 of the amount which MacDonald had contracted to pay to plaintiff. Similarly, the bonding company which was surety on a $300,000.00 bond furnished by MacDonald in accordance with the terms of the contract between plaintiff and defendant, refused to pay on that bond.

An action for damages for breach of that contract was brought in the United States District Court for the Southern District of Florida, by plaintiff, a Pennsylvania corporation, against defendant, a Florida resident and citizen, and the surety company, a New York corporation, doing business in Florida. On motion of defendant the original complaint was dismissed on the ground that the contract was illegal because it was in violation of the Florida statutory prohibition of "pugilistic exhibitions." A motion for leave to amend the complaint was filed alleging that the match was held in accordance with the provisions of the exception of Sec. 548.03, Fla. Ann. Stats., supra, pp. 4-5. On appeal the Court of Appeals for the Fifth Circuit reversed the decision of the district court dismissing the complaint, ordered a trial, and ruled that the contract between plaintiff and defendant, on its face, was not illegal under the law of Florida, 367 F. 2d 293, 301-303 (C.A. 5th 1966).

Judge Coleman of Mississippi, who also served as a member of the panel whose decision petitioner now asks this Court to consider, dissented saying:

> "I must respectfully dissent. I am of the opinion, as the District Judge held, that the contract for the prize fight was illegal on its face. This being a ques-

tion of Florida law, which more appropriately could have been settled by the courts of that State, I shall refrain from further discussion." (367 F. 2d 293, 303).

Pursuant to leave of Court first had and obtained, an amended complaint was filed by plaintiff on or about January 31, 1969, with an amendment thereto filed on February 17, 1969. In his answer to that amended complaint and an amendment thereto, the defendant contended that the proviso contained in Sec. 548.03 relied upon by plaintiff was unconstitutional "in that it violates the equal protection and/or due process provisions of both the State and Federal Constitutions," (App. 34-35).

On the trial of the cause the district court found in pertinent part:

* * * * *

V.

"The defendant MacDonald, having invoked the provisions of §548.03, Florida Statutes, in aid of his contract with plaintiff, cannot now assert its unconstitutionality to escape the burdens of the contract.

VI.

In seeking to avoid liability under the contract in issue, the defendants have raised several issues of law and fact.

The defendants have adopted the position that the fight was not conducted in accordance with the provisions of Florida Statute §548.03. The statute, penal in nature, prohibits pugilistic exhibitions except when conducted by and under the auspices of various named organizations, including the Veterans of Foreign Wars. It was the obligation of the defend-

ants under the contract between the parties to comply with the statute and otherwise to stage a lawful fight. While there is testimony which indicates that the fight was held under the auspices of the VFW, but not by the VFW, the defendants are estopped from asserting non-compliance with the statute. The Fifth Circuit Court of Appeals in its earlier decision in this case, stated that MacDonald had the obligation to conduct a lawful fight. The defendants therefore cannot assert as a defense their own failure to lawfully conduct the fight.

In addition, the last provision of §548.03, Florida Statutes, provides:

> 'Provided further, that nothing contained herein shall be construed to prohibit any municipality from exercising its police powers to regulate boxing and wrestling exhibitions held under the auspices of the above named organizations.'

[R. 729] The evidence before the Court indicates that the municipality of Miami Beach exercised its police power in regulating this match and it was held under the auspices of the VFW Post No. 3559." (App. 39-40).

* * * * *

On the second appeal this decision was reversed on two stated grounds. The first was that the Court of Appeals concluded that the finding of the district judge was "clearly erroneous" with respect to the participation of the Veterans of Foreign Wars in the staging of this boxing exhibition. The other was that the law of the State of Florida was clear and unambiguous to the effect that the contract between plaintiff and defendant could

not be enforced. 441 F. 2d 1356, 1359, and 1360-1361 (C.A. 5th 1971).

A petition by plaintiff to have the applicable questions of state law certified to the Supreme Court of Florida in accordance with the provisions of Fla. Ann. Stats. § 25.031, and Rule 4.61 of the Florida Appellate Rules, copies of which are attached hereto marked Appendices A and B, was denied on or about May 12, 1971. A copy of that order is attached hereto marked Appendix F.

We respectfully submit that the law of Florida is determinative as to the rights of the parties to this controversy; that the decision of the Court below is inconsistent with the law of Florida, and that the applicable state law is complex, far from clear and unambiguous, and, as yet, in part undetermined by Florida appellate courts, so that in accordance with the views of this Court previously expressed, these proceedings should be stayed until such time as rulings of the Florida Supreme Court can be obtained concerning these issues of state law; and further that the most recent decision of the Court of Appeals in this cause denies substantial constitutional rights to the plaintiff.

ARGUMENT.

It is apparent that all of the parties and the courts, as they must, recognize that the rights and obligations of plaintiff and defendant are to be determined in accordance with the law of Florida. Plaintiff sues for damages for breach of a contract which could only have been performed in Florida. Defendant seeks to avoid his obligations under that contract by claiming that he failed to comply with the law of Florida in carrying out the contract. The district judge in the original proceeding involving this matter concluded that the contract on its face was illegal under the law of Florida. The Court of Appeals for the Fifth Circuit was of the opposite view and ruled that even though the Veterans of Foreign Wars was not a party to the contract between plaintiff and defendant, there was nothing inconsistent in that veterans' organization, one of the approved groups under the provisions of Fla. Ann. Stats. §548.03, from being regarded as holding or providing its auspices for holding the boxing exhibition between Clay and Liston, all in accordanee with the law of Florida. On the trial, the district judge was of the opinion that the presentation of this boxing exhibition was in accordance with the law of Florida. The Court of Appeals on review of that decision, came to the opposite conclusion. No suggestion was ever made, however, by any of these courts, or by counsel for either plaintiff or defendant, that the law of Florida was not determinative.

U.S.C. Title 28, § 1652 provides:

> "The laws of the several states, except where the Constitution or treaties of the United States or Acts

> of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply."

This Court has emphatically declared that a decision by a federal court in such a case not based on state law would deny constitutional rights. See *Erie R. Co.* v. *Tompkins,* supra.

The disagreements in this cause, however, are as to the meaning of the law of Florida, particularly that portion of § 548.03 authorizing "boxing exhibitions held by and under the auspices of" certain specified veteran and civic organizations. That provision has never been construed or applied by a Florida appellate court.

It is uncontradicted in this record that all of the local Florida authorities, that is the Miami Beach Boxing Commission, and the City of Miami Beach, found the arrangements, contract, and presentation of the Clay-Liston boxing exhibition to be in accordance with that proviso. In addition to the express approval of the arrangement specified hereinbefore, it should be observed that this boxing exhibition was presented in the Miami Beach Convention Hall, which is the property of the City of Miami Beach, Florida. This was in accordance with a contract or lease (App. 143) between the City of Miami Beach and defendant's assignee. That lease expressly provided:

> "1. That said lessee will comply with all laws of the United States and of the State of Florida, all ordinances of the City of Miami Beach, and all rules and requirements of the police and fire departments or other municipal authorities of the City of Miami Beach, and will obtain and pay for bodily injury

liability and property damage insurance as required by the City and all necessary permits and licenses, including union or trade organization clearances and will not do or suffer to be done anything on said premises during the term of this lease in violation of any such laws, ordinances, rules or requirements, and if the attention of said lessee is called to any such violation on the part of said lessee or of any person employed by or admitted to the said premises by said lessee, such lessee will immediately desist from and correct or cause to be corrected such violation."

Moreover, the City Council of Miami Beach, Florida, expressly approved that lease by Resolution No. 11167 (App. 145), a copy of which is attached hereto marked Appendix G. That resolution was adopted on February 19, 1964, only a few days before the bout and after the arrangements were a matter of public record before the Miami Beach Boxing Commission.

Actually, of course, we respectfully submit that it is readily apparent that the last decision of the Fifth Circuit Court of Appeals is not in accordance with the law of Florida and, accordingly, plaintiff has been denied rights guaranteed by the constitution and laws of the United States. It should be noted that this constitutional question did not, and could not, arise until after the decision of the Fifth Circuit Court of Appeals.

In its last decision in this cause, the Court of Appeals observed:

> "We remanded this case for a factual determination of 'whether the fight actually was held by and under the auspices of one of the approved groups.' 367 F. 2d at 303. The District Court held that it was so held, finding specifically 'that the municipality

of Miami Beach exercised its police power in regulating his match and it was held under the auspices of the VFW Post No. 3559.' We do not agree, as the evidence is overwhelmingly to the contrary, and the Trial Judge's ruling is clearly erroneous. Fed. R. Civ. P. Rule 52(a)." 441 F. 2d 1356, 1359.

It is doubtful that this is a fair construction of the prior opinion of that court which stated:

"Even without benefit of the amended complaint, the contract is not on its face unlawful. MacDonald's obligation under the contract 'to stage and handle the live aspect of the promotion' should be construed to include the burden of making arrangements for a *lawful* fight. If there is any doubt as to what the parties meant, a trial should be had, not to contradict the contract but to show what the parties meant by their contract. The defendants should not be allowed to escape from a bad bargain simply because the contract at the time it was entered into was capable of both lawful and unlawful performance. In the circumstances of this case, illegality is an affirmative defense to be raised in the answer and proved by the defendants who bear the burden of proof on this issue. The defendants raised the issue prematurely in their motion to dismiss. The plaintiffs are entitled to their day in court. (We do not reach the question whether MacDonald *could* assert invalidity as a defense where he was the party responsible for failing to bring the contest within the statutory exemption.)" 367 F. 2d 293, 303.

The finding of the district judge on the trial, that the presentation of this boxing exhibition satisfied the requirements of the Florida statute, could hardly have been deemed to be "clearly erroneous" when he did no more than to reach the same conclusion that the responsible Florida state officials had reached.

It is well settled in Florida, as in the federal courts, and in other jurisdictions, that the construction of statutes by administrative officers charged with their enforcement is entitled to great weight. See, e.g., *Miller* v. *Brewer Co. of Florida, Inc., et al.,* Fla., 122 So. 2d 565 (1960); *Daniel* v. *Florida State Turnpike Authority,* Fla., 213 So. 2d 585 (1968); *State of Florida* v. *Florida Development Commission,* Fla., 211 So. 2d 8, 12 (1968).

In that last case, the court said:

> "It is well settled that the construction given a statute by the administrative agency charged with its enforcement and interpretation is entitled to great weight and the court generally will not depart therefrom except for the most cogent reasons and unless clearly erroneous. *Miller* v. *Brewer Co. of Fla.* (Fla. 1960), 122 So. 2d 565. See also *Pirman* v. *Florida State Improvement Commission* (Fla. 1955), 78 So. 2d 718. Here, the plans for the proposed Capitol Center Project were approved by the Capitol Center Planning Committee (a majority of whose members are legislators), the Planning and Architectural Advisory Council, the Board of Commissioners of State Institutions, the State Board of Administration, and the Florida Development Commission. The legal and fiscal sufficiency of the bond issue was also approved by the Bond Review Board, in addition to the three state administrative bodies referred to above. In these circumstances and in the absence of a showing that their judgment as to the legislative intent and as to the fiscal feasibility and legal sufficiency of the bonds was clearly erroneous, the contentions of the appellants in this respect cannot be sustained."

It is thus apparent that the Court of Appeals for the Fifth Circuit in its most recent decision ignored the

administrative construction of the applicable Florida statutes, and at best reached a conclusion of doubtful validity under the law of Florida. In any event, it cannot be said that with the patent disagreement between federal judges and between some federal judges and state officials as to what the law of Florida is, that the state law is so clear and unambiguous as to justify the refusal of the Court of Appeals to seek the views of the Florida appellate courts concerning these legal questions.

As this Court pointed out in a comparable situation in *Jackson* v. *Ogilvie,* 401 U.S. 904, 91 S. Ct. 642 (1971):

> "While these issues are by our federal standard 'justiciable,' federal courts are usually less able than state courts to work their way through a maze of state electoral laws. If federal courts take the laboring oar in these so-called 'emergency' cases involving local electoral laws, they must make quick decisions on local law issues that are often tangled with matters of local construction and administration.*
>
> *One of the underlying local law issues involves the question as to what people are qualified to sign nominating petitions for independent candidates such as petitioners. There is one view that the signatures must be of persons who did not vote in the preceding primary election for nominees of candidates for that office, and there is the opposed view that any registered voter may sign nominating petitions for independent candidates."

As to a second issue of state law which it believed to be involved, the Court of Appeals said:

> "A second issue before us is the finding by the District Court that inasmuch as MacDonald had the obligation of conducting a lawful fight under the contract, defendants were estopped from asserting

noncompliance with the exclusion clause of Florida Statutes Annotated § 548.03.

The law of Florida is to the contrary. . . ." 441 F. 2d 1356, 1360.

It is doubtful that the district court so ruled. See App. 39-40, supra, pp. 7-8. In any event, the precedents relied upon by the Court of Appeals to support its conclusion as to the law of Florida in this regard do not support that conclusion. In not a single one of those cases, or in any other, has a Florida appellate court ruled that a breach of contract by a defendant could constitute a defense for him against an action by a party to the contract for damages on account of the defendant's breach of contract.

In the instant case the terms of the contract (App. 61-68) put the choice of methods used in carrying out the contract wholly within the control of the defendant (App. 8, supra, p. 3). Defendant had the sole right and obligation "to promote said boxing contest in the manner he deems satisfactory . . ."

The Court of Appeals chose to ignore defendant's recognition of his authority and legal obligation contained in his letter of December 26, 1963, in which he confirmed the understanding with Veterans of Foreign Wars Post 3559 for its sponsorship of the Liston-Clay bout. A copy of that letter (Plaintiff's Exhibit 17, App. 153), is attached hereto marked Appendix H. To the same effect is the Owners, Landlords and Tenants liability policy secured by defendant in accordance with the requirements of the Miami Beach Convention Hall lease. That policy listed as insured "sponsors" Chris Dundee and Miami Beach Post #3359 (sic) Veterans of Foreign

Wars of the United States (Plaintiff's Exhibit 16, App. 147). Chris, of course, was defendant MacDonald's associate in Dundee-MacDonald, Inc., to which MacDonald had assigned his contract rights (App. 67).

It is clear that by the law of Florida a contract is presumed to be made with intent to do acts in accordance with the law of place and performance of the contract. As the Supreme Court of Florida pointed out in *Shavers et al.* v. *Duval County, et al., Fla.*, 73 So. 2d 684, 689 (1954):

> "It has long been firmly established that the laws existing at the time and place of the making of the contract and where it is to be performed which may affect its validity, construction, discharge and enforcement, enter into and become a part of the contract as if they were expressly referred to or actually copies or incorporated therein. . . ." (citing cases).

See also *General Development Corporation* v. *Catlin*, Fla., 139 So. 2d 901 (1962).

The statutes of the State of Florida and the first decision of the Court of Appeals in this cause make it eminently clear that the presentation of a boxing exhibition is not contrary to the public policy of the State of Florida. Thus the cases dealing with refusal to enforce contracts contrary to public policy relied upon by the Court of Appeals in its second decision have no proper application in this cause.

Similarly, the Court of Appeals in its second decision ignored the decisions of the Florida courts as to the effect of the illegality of the conduct of a defendant as a defense for his own wrongdoing. The applicable precedents are not those cited by the Court of Appeals,

but rather are *Torreyson, et al.* v. *Dutton, et al.*, Fla., 188 So. 805, 807 (1939) and *Standard Accident Insurance Co.* v. *Bear, et al.*, Fla., 184 So. 97 (1938).

In the first of those cases the failure of a mortgagor to pay real estate taxes on the property which was security for the mortgage as the mortgage obliged him to do was held to bar the mortgagor from pleading the supremacy of a title acquired by him by way of a tax sale as against the rights of the mortgagee. As the court pointed out,

> "It is a well settled principle of law that one may not take advantage of his own wrong."

The *Standard Accident Insurance* case, supra, was to the same effect. There a property owner who, having been served with notice of a supplier's mechanics lien, paid an amount to the contractor greater than that owed to the supplier was not allowed to prevail in a complaint against the contractor's surety because the property owner had failed to carry out his obligation to the supplier under the terms of the Florida law. As should have been done here, the court in that case properly regarded the provisions of the Florida mechanics lien law as a part of the contract between property owner, the contractor, and the surety.

Any fair consideration of these precedents, together with those relied upon by the Court of Appeals, makes it abundantly evident that either the court is in error as to what the law of Florida is, or that the law is not so clear and unambiguous as to warrant the refusal of the Court of Appeals to conform to the requirements of the doctrine of "abstention" so often enunciated by this Court. This is particularly true where, as here, a procedural device to obtain the views of the Florida Su-

preme Court as to the operative questions of Florida law is so readily available. See Fla. Ann. Stats. §25.031, and Rule 4.61, Florida Appellate Rules, attached hereto as Appendices A & B.

CONCLUSION.

For all the above and foregoing reasons, petitioner respectfully urges this Court to vacate its order denying the Petition for Certiorari, to issue that writ and on review to reverse the decision of the Court of Appeals. In the alternative petitioner prays this Court to stay the effect of the order of this Court denying the petition, to direct the Court of Appeals for the Fifth Circuit to stay its mandate, and urges this Court to certify the questions of state law involved in this cause to the Supreme Court of Florida.

Respectfully submitted,

HANSFORD H. TYLER, JR. and
DAVID D. PHILLIPS
HORTON & SCHWARTZ
410 Concord Building
Miami, Florida 33130

WILLIAM R. MING, JR.
ALDUS S. MITCHELL
SOPHIA H. HALL
ANDREW M. RAUCCI
110 S. Dearborn Street
Chicago, Illinois 60603
Counsel for Petitioner

By /s/ WILLIAM R. MING, JR.
Of Counsel

NOVEMBER 5, 1971

CERTIFICATE OF COUNSEL

As one of counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2) of the Rules of this Court.

/s/ William R. Ming, Jr.
Counsel for Petitioner

APPENDIX A

25.031 *Supreme court authorized to receive and answer certificates as to state law from federal appellate courts*

The supreme court of this state may, by rule of court, provide that, when it shall appear to the supreme court of the United States, to any circuit court of appeals of the United States, or to the court of appeals of the District of Columbia, that there are involved in any proceeding before it questions or propositions of the laws of this state, which are determinative of the said cause, and there are no clear controlling precedents in the decisions of the supreme court of this state, such federal appellate court may certify such questions or propositions of the laws of this state to the supreme court of this state for instructions concerning such questions or propositions of state law, which certificate the supreme court of this state, by written opinion, may answer.

25.032 *Same; rules and regulations*

The supreme court of this state is hereby authorized and empowered to collaborate with any and all other courts of last resort, of other states and of the United States, in the preparation and approval of uniform rules of court to make effective this and similar laws.

APPENDIX B

Rule 4.61. *Certified questions from federal courts*

a. When Certified. When it shall appear to the Supreme Court of the United States, or to any of the Courts of Appeal of the United States that there are involved in any proceeding before it questions or propositions of law of this state which are determinative of said cause and that there are no clear controlling precedents in the decisions of the Supreme Court of this state, such federal appellate court may certify such questions or propositions of law of this state to the Supreme Court of Florida for instructions concerning such questions or propositions of state law.

b. Jurisdiction. Questions or propositions of law referred to in sub-paragraph a hereof shall be certified for answer to the Supreme Court of this state.

c. Method of Invoking Rule. The provisions of this rule may be invoked by any of the federal courts referred to in sub-paragraph a hereof upon its own motion or upon the suggestion or motion of any interested party when approved by such federal court.

d. Contents of Certificate. The certificate provided for herein shall contain the style of the case, a statement of facts showing the nature of the cause and the circumstances out of which the questions of propositions of law arise and the question of law to be answered.

e. Preparation of Certificate. The certificate may be prepared by stipulation or as directed by such federal court. When prepared and signed by the presiding judge of said federal court, it shall be certified to the Supreme Court by the clerk of the federal court and under its official seal. The Supreme Court may, in its discretion, require the original or copies of all or any portion of the record before the federal court to be filed with said certificate where, in its opinion, such record may be necessary in the determination of said cause.

f. Costs of Certificate. The costs of the certificate and filing fee shall be equally divided between the parties unless otherwise ordered by this Court.

g. Briefs and Argument. The appellant or moving party in the federal court shall file and serve upon its adversary its brief on the question certified within 30 days after the filing of said certificate in the appellate court of this state having jurisdiction. The appellee or responding party in the federal court shall file and serve upon its adversary its brief within 20 days after the receipt of appellant's or moving party's brief and a reply brief shall be filed within 10 days thereafter.

h. Oral Argument. Oral argument may be granted upon application and, unless for good cause shown the time be enlarged by special order of the Court prior to the hearing thereon, the parties shall be allowed the same time as in other causes on the merits.

APPENDIX C

ARTICLE II of CHAPTER 27 of Miami Beach City Code BOXING and WRESTLING

SEC. 27.2. *Definitions.*

The following words, when used herein, shall for the purpose of this article, have the meanings respectively ascribed to them as follows:

(a) *Exhibitions.* Exhibitions shall include any show, encounter, fight or match, with or without gloves, commonly considered a boxing or wrestling match, the same being voluntary between two or more persons for money, prizes of any character, points, or fame, or any other thing of value, or upon the result of which any money or thing of value is bet or wagered, whether admissions fees are charged or not, directly or indirectly.

(b) *Person.* Person shall include a natural person, a corporation created under the laws of this or any other state, a partnership, association or a joint stock company.

(c) *Promoter.* Promoter shall include any person, association or corporation engaged in advertising, encouraging, promoting or bringing about an exhibition in the city. (Ord. No. 371, & 1.)

SEC. 27.3. *Boxing Commission.*

A commission is hereby created to be known as the boxing commission of the city whose duty it shall be to

administer and provide for the enforcement of all the provisions of this article. The commission shall consist of five members to be appointed by the city council, any three of whom shall constitute a quorum. Until August 5th, 1953, the commissioners shall serve during the pleasure of the city council and on and after August 5th, 1953, the commissioners shall be appointed for and shall serve for two-year terms and until their successors are duly appointed and qualified. The terms of office of the members appointed on the 21st day of August, 1957 shall expire on the 30th day of September, 1959 and thereafter members of the commission shall be appointed for terms of two years commencing from the date of the expiration of the term of their predecessors, and shall serve until their successors are duly appointed and qualified. The commission shall have its office in the city hall and in rooms to be provided by the city for that purpose, and all of its records shall be there kept. The commission shall hold meetings upon such days as may be determined by the commission and may hold special meetings upon the call of the chairman or any three members. It shall keep a complete record of all its meetings, all its acts and all the business it transacts, and may prepare all necessary regulations and blank forms for the conducting of its business.

The commission may employ from time to time such clerks and employees as are necessary for the administration of this chapter and shall pay salaries to such clerks and employees only out of such funds as the commission may procure as hereinafter provided. The commission and each of the members shall take and file the oath of office prescribed by law.

The commission shall report to the city council annually the work during the preceding year.

The commission shall regulate and supervise and have jurisdiction over all pugilistic, boxing, wrestling or similar public exhibitions in the city. (Amended 11-20-57)

SEC. 27.4. *Permit—Required.*

No person shall advertise, encourage, promote or engage in any exhibition, as defined by section 27.2 of this Code, directly or indirectly, without having first obtained a permit for the holding of such exhibition from the commission as hereinafter provided. (Ord. No. 371, & 3.)

SEC. 27.5. *Same—Application Generally; Application Fee.*

(a) No permit shall be issued by the boxing commission unless application therefor shall be first filed with the commission in writing and filed with the commission on or before five days prior to the date on which any such exhibition is intended to be held, with the right nevertheless for the commission to alter the time within which the application shall be filed. Such application shall be upon forms prescribed by the commission for that purpose and signed by the person intending to conduct or promote such exhibitions. If the applicant is a corporation, the application shall be signed in the corporate name by the president thereof and if the applicant is a partnership or association the application shall be signed by a member of such partnership or association.

(b) The application for permit must be duly sworn to by the applicant certifying to the truth of the state ments therein contained.

(c) The application shall contain the following information:

1. The name, age and residence of the applicant, and his sponsor who must be one of the following: American Legion, Disabled American Veterans, Veterans of Foreign Wars of the United States, Spanish-American War Veterans, or companies or detachments of the Florida National Guard, Y.M.C.A., or any college which is a member of any recognized amateur athletic association and the Circulo Cubana Club, a charitable organization now in existence.

2. The length of time the applicant has resided or done business in the city.

3. Whether the applicant intends to promote the exhibitions for himself or for others.

4. If the applicant is not alone in the promoting of the exhibition he shall give the names and addresses of each and every one of his associates in connection with the exhibition.

5. If applicant is a corporation or partnership the names of all stockholders and partners shall be set forth in full and the interest of each.

6. A financial statement shall be given by the applicant from which the commission may determine the financial responsibility of the applicant.

7. The exact time, day and hour of the day, when the exhibition is intended to be held.

8. The exact place where the exhibition is intended to be held.

9. The names of the contestants intended to be engaged in the exhibition, together with information as to the amount of money or guarantee each contestant is to receive or has been promised.

The commission may require the applicant to submit any other and further information it may in its judgment deem necessary to enable it to ascertain the merits of such application.

At the time of the filing of the application with the commission as aforesaid, the applicant shall pay to the commission a fee of five dollars, which fee shall be deposited in a fund belonging to the commission for the purpose of paying its administrative expenses. (Ord. No. 371, & 4; Ord. No. 448, 2, 3.)

SEC. 27.6. *Same—Prerequisites And Conditions Generally To Issuance.*

After the filing of the application with the commission, it shall be the duty of the commission to consider and determine the merits of the application at a regular or special meeting held for that purpose. If upon examination of the application, the commission shall find that the applicant is of good moral character and financially able to promote the exhibition, that the time is satisfactory and the place of holding the exhibition has been approved by the city council of the city and is in conformity with the Zoning Ordinance and that the exhibition is not against the public welfare and that the contestants are properly matched and are in sound physical condition at the time of the contest, then a permit may be issued by the commission to such applicant to promote and carry out the exhibition. Every such permit

issued to such applicant shall be subject to any and all rules and regulations made by the commission. No permit shall be issued except as herein provided.

The commission may issue a permit for the holding of such exhibitions upon such terms and conditions as may be prescribed by it, and may in its discretion, change or modify such conditions from time to time, and may in its discretion, withdraw or cancel any permit already issued upon proper cause. (Ord. No. 371, & 5; Ord. 443, & 4.)

SEC. 27.7. *Same—Bond Required; Fee.*

After the commission has acted favorably upon any application, but before such permit is issued, the applicant shall furnish to the city a surety company bond, or a property bond with two good and sufficient sureties, owning real property in the city, in an amount to be fixed and determined by the commission and city attorney at the time of granting the permit, the bond to be conditioned upon such terms and conditions as may be fixed and determined by the commission, particularly upon the condition of the faithful holding and carrying through of the exhibition intended to be staged or promoted by the applicant or the return by the applicant of all moneys received by the applicant in the sale of tickets or otherwise, in connection with the exhibition. Upon the issuance of the permit, the applicant shall pay to the commission a fee of one dollar. (Ord. No. 371, & 6.)

SEC. 27.8. *Suspension And Fining Of Contestants, Etc.; Disposition Of Fines.*

(A) For the violation of any of the provisions of this article or the rules of the Commission, the Commission

shall have the power to fine or suspend, or to fine and suspend any promoter, manager, contestant, second or any licensee or permittee issued a license or permit by the Commission. In addition to such fine or suspension the Commission shall have the power to cause the purse of any contestant to be forfeited. All such fines and forfeitures shall be turned over by the Commission after ninety (90) days to the Welfare Department of the City for charity purposes. Nothing herein shall be construed to limit the power of the Commission to fine and suspend any other person coming under its jurisdiction. No person shall be fined or suspended, or the purse of any contestant be forfeited except after due notice and opportunity to be heard by the Commission at such time and place as designated by it.

(B) Any person deeming himself aggrieved by the order or judgment of the Commission under the provisions of this section may appeal therefrom to the City Manager. Such appeal must be taken within ten (10) days from the rendition of such order or judgment. Such appeal shall be commenced by filing a notice thereof with the Commission, and specifying the grounds thereof. Upon the filing of such appeal the Commission shall forthwith transmit to the City Manager all the papers constituting the record upon which the order or judgement appealed from was entered. The testimony taken at any hearing had before the Commission shall not constitute a portion of the record to be transmitted to the City Manager unless so specified in the Notice of Appeal, and in that event, the cost of the transcription of such testimony shall be borne by the Appellant. The taking of an appeal shall not operate as a stay of proceedings,

unless so ordered by the Commission, subject, however, to the order of the City Manager.

Upon receipt of the record on appeal, the City Manager shall fix a reasonable time for the hearing of the appeal. The appeal shall be tried on the record and not de novo. The City Manager shall have the power to either affirm or reverse the order or judgment of the Commission, or to enter such order as should have been rendered by the Commission, and the same shall be final. (As amended July 18, 1952.)

SEC. 27.9. *Rules And Regulations.*

All exhibitions as defined by section 27.2 of this Code and all persons in anywise connected with, interested in or participating in any such exhibitions shall be subject to the rules and regulations and decisions of the commission as it shall from time to time prescribe for the conduct of such exhibitions, subject to the approval of the city manager. (Ord. No. 371, & 7.)

APPENDIX D

BOXING
Rules and Regulations
of the
Boxing Commission
of the
CITY OF
MIAMI BEACH, FLORIDA
BOXING COMMISSION
of the
CITY OF MIAMI BEACH, FLORIDA
—RULES AND REGULATIONS—

Offices of the Commission

The Commission shall maintain offices at the City Hall, Miami Beach, Florida.

Meetings of the Commission

Meetings of the Commission shall be held at such time and place as the call of the Chairman may designate.

Interpretation

In the interpretation of these regulations, unless the content indicates a different meaning:

The word "Commission" means the Boxing Commission of the City of Miami Beach, Florida.

The word "Promoter" means any corporation, unincorporated club or association, or individual engaged in the promotion of regularly scheduled or individual box-

ing shows or exhibitions, in compliance with the Statutes of the State of Florida.

Licenses and Fees

The Commission shall issue licenses to officials, contestants, managers, seconds and such other persons as it may, from time to time designate. A license is a prerequisite to participation, in any capacity, in boxing or wrestling exhibitions.

License fees shall be on a fiscal year basis running from October 1 to September 30 of the following year. No person convicted of gambling or a felony or of a crime involving moral turpitude shall be licensed under these rules.

Licenses must be applied for annually. Each applicant for an annual license shall, before such license is issued, be required to pay to the Commission a license fee. If the applicant is denied a license, for any reason hereinafter set forth, the license fee shall be returned. License fees shall be as follows;

Main Event Contest, Additional $5.00 per contestant per event except on TV shows.

Boxer's License, $5.00 per annum.

Second	$ 5.00
Manager	10.00
Announcer	15.00
Referee	25.00
Promoter or Matchmaker	250.00
Assistant Promoter or Assistant Matchmaker	150.00

Temporary licenses for special event referees subject to the discretion of the Commission

Annual application for licenses shall be made on forms to be supplied by the Commission and must contain such information as may be required by the Commission. All applications must be verified under oath.

Licenses issued under these rules may be suspended or revoked by the Commission at any time for violation by the licensee of any order, rule or regulation of the Commission or for other cause deemed sufficient by the Commission, including actions adjudged by the Commission as detrimental to boxing and wrestling or not in the best interests of boxing and wrestling.

If any license is refused, suspended or revoked, the Commission shall state its reasons for so doing and cause an entry of said reasons on the minutes of the Commission. Such action shall be subject to review by the City Manager of the City of Miami Beach as provided for in Section 27.8 of "The Code of the City of Miami Beach, Fla. 1950."

No person whose license has been revoked or who has been suspended by the Commission shall participate in any capacity in any boxing or wrestling exhibition during the period of such suspension or revocation, and shall not be permitted in the dressing rooms of any participant in such exhibitions, nor shall he communicate or attempt to communicate with such participants, their managers or seconds, or the referee, during any boxing or wrestling exhibition. Any person violating this rule shall be subject to expulsion from the arena or auditorium building.

Promoters

Qualifications for License

The Commission may, in its discretion, issue licenses to individuals or organizations holding boxing or wrestling exhibitions, and all such individuals or organizations must be duly licensed in order to hold such exhibitions. Any such license may be revoked at any time at the discretion of the Commission, for any infractions of rules governing Promoters or Matchmakers.

Before a Promoter or Matchmaker is issued a license the following shall be required:

1. That the applicant furnish to the Commission references as to his good character from at least five reputable citizens of Dade County.
2. That the applicant has never been convicted of any felony or of a misdemeanor involving moral turpitude.
3. That the applicant be a resident of Dade County for a period of at least six (6) months. The Commission may waive this requirement.
4. It shall be incumbent upon the Promoter or Matchmaker to file with the Commission public liability insurance providing limits of not less than $100,000 for injuries to one person, and $500,000 limit for one accident to two or more persons. Also property damage with a limit of $5,000.
5. A Promoter or Matchmaker shall deposit with the Commission a bond in an amount to be fixed and determined by the Commission and City Attorney. Said bond will be acceptable in the sum fixed, by either a certified check, surety bond, or cash.

Requirements

A Promoter or Matchmaker shall not advance any contestant more than one-quarter of his purse for an approved exhibition, before the said exhibition. In no other instance shall any Promoter or Matchmaker obligate any boxer financially or otherwise such as: by furnishing lodgings or board, personal loans, etc.

No Promoter or Matchmaker shall have any financial interest in any boxer who appears in any exhibition in any arena operated under their supervision.

Promoter or Matchmaker must, in case of a substitution, in a main bout, post in a conspicuous place in front of the arena, or directly over the cashier windows, notice of said substitution, and, if time permits, to so state in the newspapers and radio.

Licensed Promoters or Matchmakers shall only hold bouts specifically authorized in writing by the Commission.

All boxing shows shall consist of at least 32 rounds of boxing.

All Promoters or Matchmakers shall provide a suitable bulletin board in fighters' dressing rooms, so the Commission can post any bulletins desired. The Commission shall have the right to demand and receive from any Promoter or Matchmaker his entire pass or complimentary list.

Promoters or Matchmakers shall be held responsible for the arena in which they operate as to proper equipment, personnel, ushers, ticket sellers, etc., and in general anything pertaining to the correct handling of the show.

No "Prize Fights"

Contests are considered "boxing exhibitions" and not "fights" or "prize fights." No professional boxing contest will be permitted in connection with any theatrical performances.

Fraud Punished

Any person under the jurisdiction of the Commission found guilty of any fraud, sham, collusion or conspiracy detrimental to boxing or wrestling will be fined or suspended or both, at the discretion of the Commission.

Soliciting

There shall be no advertising over the public address system; no begging or soliciting shall be allowed at boxing or wrestling shows, without authorization from the Commission.

Publicity

No publicity of any nature shall be released concerning any bout until such bout has been officially approved by the Commission.

* * * * *

Tickets

Promoters or Matchmakers shall see that all tickets shall have clearly printed on them the admission price of the ticket, and no ticket shall be sold at a price higher than the price so shown. All tickets shall specify the section, row and seat as shown in the official arena scale on file with the Commission.

The sale of tickets for any proposed exhibition is prohibited until plans showing the seating arrangements,

aisle spacing, exit facilities, and the location of fire appliances of the place where the exhibition is to be held have been approved by the Building and Fire Departments of the City of Miami Beach, and the Commission.

All tickets, exclusive of working press, officials, employees, and photographers shall have the price and name of Promoter and date and place of exhibition plainly printed thereon. Changes in ticket prices, places or dates of exhibitions shall be referred to the Commission for approval. Tickets of different prices must be printed on cardboard of different colors.

All complimentary tickets shall be either marked "COMPLIMENTARY" in large letters or properly punched.

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Officials

Designation of Officials

For all exhibitions, whether professional or amateur, all officials such as the Referees, Judges, Examining Physician and Timekeeper, etc., shall be designated by the Commission and only those officials so designated shall have authority to perform their respective functions.

Inspectors

The Commission shall from time to time, appoint such number of Inspectors as, in the discretion of the Commission, may be necessary. At least one Inspector shall be present at all exhibitions. No person who is, directly or indirectly, interested in the management of any contestant, or who is an individual Promoter or Matchmaker, or stockholder in or employee of a corporation, or interested in an unincorporated club or association engaged

in the promotion of exhibitions, shall be granted an Inspector's license. Inspectors shall work in cooperation and in conjunction with such police officers as may be detailed for this duty at the boxing exhibition.

The Inspectors shall have supervision over Boxers, Seconds and Managers and all matters that pertain to the outside of the ring, and to any actions of the contestants themselves while out of the ring. They shall check the condition of fight togs and bandages and other equipment the Seconds should have before entering the ring. Inspectors must report at all places to which they are assigned not later than one and one-half hours before start of exhibition. The Inspector in charge of a show shall file, in addition to the official report, a detailed account of any violations of the Rules and Regulations governing boxing or wrestling, particularly where a purse has been ordered held.

* * * * *

Fines and Suspensions

Any violation of the rules or regulations of the Commission shall subject the violator to such penalty as the Commission may impose.

Minor infractions of rules during a boxing exhibition such as: Promiscuous splashing of water by Boxer's handlers; Seconds coaching during a round; unsanitary use of medicines on swabs by Seconds; excessive use of grease by Seconds after being warned; and profanity in the corners and unsportsmanlike conduct, will not be tolerated.

APPENDIX E

MINUTES
BOXING COMMISSION CITY OF MIAMI BEACH
DATE: Tuesday evening, December 17th, 1963
Place: [redacted] Lincoln Road, Miami Beach, Fla.
Present: [redacted]rris Klein, Chairman, Carl Gardner, Vice C[redacted]rman; Commissioners Ed Lassman, Al She[redacted]n and Dan Roth

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Bills were approved for payment: Wolfies $18.50 and Morris Klein $36.12 for telephone and telegrams re: securing the Liston vs. Clay match.

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Discussion took place on the advisability of holding a party for the staff. It was felt after much talk that this matter should be tabled for the time being and taken up at a later date, perhaps after the Championship fight.

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It was decided that Ed Lassman as President of the World Boxing Ass'n would ask Dundee for a copy of the contract between Clay and Liston and another copy to be placed on file with this Commission.

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Discussion too place re: the coming Championship fight. Since no request was made by any promoters it was decided to delay any official action at this time, but the secy was informed to prepare a list of things that will have to be agreed upon before this Commission grants approval for the match.

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MEETING OF THE BOXING COMMISSION

DATE: December 23rd, 1963, at 4 p.m.
Place: Mr. Ritter's Office, Miami Beach Auditorium
Present: Chairman of the Commission, Morris Klein, Commissioners Ed Lassman, Carl Gardner, Al Sherman and Dan Roth. Sec'y Bill Glick and William MacDonald, Chris Dundee, Claude Ritter and Mr. Frank Lewis.

The meeting was called to iron out some of the problems relative to the World Championship Fight between Cassius Clay and Sonny Liston.

The following items were brought up and answered.

1. Date of fight . . . Tuesday evening February 25th
2. Copies of contract between fighters. . . Ed Lassman said that he would request them as President of the WBA and see that the MBBC gets a copy of same
3. Promoters License. The license in the name of Dundee-MacDonald Enterprises would be requested with a fee of $250.00
4. Surety Bond and Public Liability: Mr. Ritter said that this was covered in the City Council's approval of the Convention Hall rental.
5. Seating at the apron. The Commission stated that the following seats would have to provided for at the ring apron for the match: 2 Judges; 1 Doctor in each corner, 1 Inspector in each corner, 2 Timekeepers and the five seats for the Commissioners and 1 for the Commission secretary.

6. Seating chart: Dundee informed the Commission that the seating charts are being worked on. That there would be 16,480 seats not including 352 Press seats. Mr. Ritter stated that this chart would be in hands of the Commission some time next week.

   Mr. MacDonald said they were going to double print the $50.00 seats and have two sets of the $20.00 seats. He also promised the Commission that he would have delivered a full chart of the seating and show the price scale. Mr. MacDonald also assured the Commission that there would be non scalping of tickets.

6. Officials: All officials will be supplied by the Miami Beach Boxing Commission.

7. Pre Fight Examination: Will be required by Commission.

8. Fee To Commission: The promoters agreed to pay the Miami Beach Boxing Commission a fee of $2500 to pay all expenses that the Commission would incur as a result of the fight being held here.

9. Complimentary Tickets: The promoters agreed that each member of the Boxing Commission staff would receive 1 working ticket and that all members of the Commission would receive 4 tickets complimentary.

Mr. MacDonald also assured that all tickets would be sold on a C.O.D. basis with a first come first served policy.

Dressing rooms for the main event fighters would be on the west side of the Convention Hall one on the north side and the other on the south side.

Andy Frain ushers would be in charge of the security and Mr. Ritter is working with Police Chief Rocky Pomerance for security, additional. The matter was brought up about the handling of the Press after the fight. At the last fight, the city received exceptional bad publicity as a result of a scrap between news men and the police. Ritter assured the Commission that he had gone over this with the Police Chief and that it would not happen this time.

Commissioner Al Sherman asked Ritter if there was some way that the TV cables could be covered so that people walking through would not be liable to tripping. Ritter said that though it was a difficult problem he would do his best.

Regarding the weigh-in on the day of the fight. It was decided to leave this matter to a later date for final discussion.

Mr. Ritter then said that he was instructed by Mr. Pushkin to prepare a full package on the results of the meeting and then he would be in touch with the Commission again.

Formal approval was asked by Dundee-MacDonal Enterprises to promote the Heavyweight Championship fight between Sonny Liston and Cassius Clay on February 25, 1964. The Commission approved and the secy was ordered to send a application for Promoters license to the above.

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MINUTES
MEETING OF THE MIAMI BEACH BOXING COMMISSION

DATE: Monday evening, February 17th, 1964.

Present: Morris Klein, Chairman; Ed Lassman, Carl Gardner, Dan Roth and Al Sherman, Commissioners, Angelo Dundee, representing Cassius Clay; Jack Nilon, representing Sonny Liston and members of the press and radio and TV.

The Commission after considerable discussion set down the following rules for the Liston-Clay match to be held Tuesday evening, February 25th:

1. 8 oz. gloves would be used
2. The Mandatory eight count would be in effect
3. If a fighter is floored and the bell rings signalling the end of a round, the count will continue. If the count reaches 10 and the fighter is still down, he will lose by a KO. If he gets up before the count of 10 he will proceed to his corner. The time he has spent on the floor will be deducted from his rest period.
4. The "three knock-down" rule will be waived.
5. The Commission will select the referee, timekeepers and Judges 30 minutes prior to the fight.

AT THIS POINT THE PRESS WAS INVITED IN AND THE CHAIRMAN TOLD THEM OF THE ABOVE-MENTIONED RULES.

Nilon objected to the waiving of the "three knock-down" rule. He also stated that he did not want Liston to be weighed in at the same time with Clay. After con-

siderable discussion, the Commission unanimously voted to hold the weigh-in at the Convention Hall, Tuesday morning at 10:30 a.m. and both fighters will be weighed in at the same time. Klein instructed both Dundee and Nilon to make sure that both fighters be prompt.

Dundee asked for a clarification of the rule which stated that the fighter must be clean shaven. He was informed that it did not mean that Liston would have to shave his mustache off.

The Commission then continued with its regular business after dismissing the press.

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Secretary advised commission that the $2500 fee from MacDonald Dundee Enterprises had not been received. Secretary was instructed to call Frank Lewis and arrange for fee.

Julian Cole, press representative for Dundee-MacDonald was then instructed by Commission that one side of the ring must be left for the exclusive use of the Commission. On the other three sides he is to meet with Bill Glick and work out the necessary arrangements for Doctors, Inspectors, and Judges. This is to be done on Thursday of this week.

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MINUTES OF BOXING COMMISSION MEETING

DATE: Saturday, February 22nd, 1964 at 11 A.M.
Present: Chairman Morris Klein, Carl Gardner, Al Sherman, Dan Roth. Ed Lassman absent

Meeting called to order by the Chairman to iron out the last minute details relative to Liston-Clay match.

Since only two tickets would be available for Drs. at Ringside, it was decided to have Dr. Kaplan sit near the dressing rooms for the purpose of being available for emergency.

The weigh-in for the fight was set for 10:30 a.m. in the Cypress Room of the Convention Hall. The Commission would be in full and complete charge of the weigh in.

It was decided to distribute the money to the staff for payment of their services after the fight when the Commission would meet again.

TNT requested that a "creepie peepie" camera be permitted to look at the score cards between rounds. This was OK'd.

The announcer was instructed to name all the Commissioners in his opening announcement.

The commission was informed that a dinner party had been set up at the Chandler's Rest. for the visiting members of the Executive Committee of the W.B.A. for Monday evening. At which time the M.B. Commission will be the hosts.

Request made by Jack Vivian and Dr. Brody for extra tickets for fight. Both received explanation from the Chairman that only one ticket had been allotted for each staff member of the Commission. The secretary was instructed to see that each man received his tickets prior to fight time.

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MEETING OF BOXING COMMISSION HELD IN MIAMI BEACH CONVENTION HALL,

FEBRUARY 25th, 1964 at 9 p. m.

Present: Commissioners Klein, Gardner, Roth & Sherman

Absent: Ed Lassman

This meeting was called to select officiating officials for the Heavyweight Championship fight between Sonny Liston and Cassius Clay as per agreement by Commission. Press was barred.

Selected by unanimous decision:

Referee: Barney Felix

Judges: Gus Jacobson and Bunny Lovett

Timekeeper: Gus Raynor

Knockdown Time Keeper: Scotty Lang

It was agreed that this information would be held confidential until 9:30 p.m. of this date.

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MEETING OF THE BOXING COMMISSION, CITY OF MIAMI BEACH

One Lincoln Road, Miami Beach

Date: Wednesday, February 26th at 5:30 p.m.

Present: Commissioners Klein, Gardner, Roth and Sherman. Also, members of the Press

Chairman Klein opened the meeting and advised all that this meeting had been called to hear and receive the official reports from the Medical Staff relative to injuries of Sonny Liston received last night at the Heavyweight Championship fight.

Klein read a letter from Dr. Alex Robbins, Chief Medical Officer of the Commission stating that in his opinion, concurred by eight other doctors, that Liston had suffered an injury during the fight and was unable to continue.

The Commission all agreed that in their opinion that this report should be accepted and filed.

The press was called in and Commissioner Klein gave them a statement saying that in the opinion of this Commission there was no longer any reason to withhold the purse of Sonny Liston and that this Commission had accepted the medical report.

Press then asked for further clarification and this was given by various members of the Commission.

* * * * *

MEETING OF THE BOXING COMMISSION OF THE CITY OF MIAMI BEACH

Date: March 3rd, 1964 at 7:30 p.m.

Place: One Lincoln Road, Miami Beach

Present: Commissioners Klein, Gardner, Sherman and Roth. Ed Lassman called and said that he could not attend but authorized the others to speak for him and that he would go along with their decisions.

Commissioner Klein, Chairman of the Commission advised that the meeting was called to iron out any matters left hanging from the Clay-Liston fight and to distribute the monies to the staff.

Glick then stated that the bank balance was $4723 with approximately $150 more due.

The Commission then unanimously decided as follows.

Referees	(six)	$600 to be divided equally
Announcer	(1)	$100
Judges	(6)	$150 to be divided equally
Timekeepers	(4)	$105—3 to receive $25 Chief to receive $30.00
Inspectors	(6)	$125 5 to receive $20 Chief to receive $25
Doctors	(3)	$100—2 to receive $25.00 Chief to receive $50.00
Executive Secretary	(1)	$100

The secretary was instructed to prepare checks and mail them with a thank you note to all staff members.

Mr. Klein informed the Commission that we should expect a bill in the amount of $108.00 from St. Francis Hospital for X-Rays for Sonny Liston and a bill in the amount of $100 from a Dr. Russin for Consultation. These were ordered paid upon receipt.

A bill from Chandler's Restaurant in the amount of $189.60 for the W.B.A. officials dinner was ordered paid in that amount.

A letter from Cassius Clay apologizing for his actions was read by the secretary. Further discussion relative the fine of $2500 was held by the Commission. The general feeling was that the fine levied by the Chairman upon Clay would stand.

Respectfully submitted;

/s/ W. Bill Glick
W. Bill Glick-Exec. Secy

DUNDEE-MacDONALD ENTERPRISES, INC.
Feb. 28th-1964

Mr. Morris Klein.
Chairman of the Miami Boxing Commission.
Miami Beach, Fla.

Gentlemen:

I want to take this opportunity of telling you and the other members of the Boxing Commission that I am deeply sorry for my actions at the weigh-in on Tuesday last—

I want you to know that it was only the pressures of the impending fight—Which caused my inconsiderate actions for this I deeply apologize—

Sincerely,

Cassius Clay
/s/ Cassius Clay
-Your World Champion
Good Luck
2-28 1964

MINUTES
MEETING OF THE BOXING COMMISSION OF THE CITY OF MIAMI BEACH

PLACE: One Lincoln Road, Miami Beach
DATE: SUNDAY, MARCH 15th, 1964 at 1:00 P.M.
Present: Commission Chairman Morris Klein, Vice-Chairman Carl Gardner, Commissioners Al Sherman, Ed Lassman and Dan Roth

The minutes of the meeting of March 3rd were read by Secretary Glick and approved.

Glick reported that there was $3612.66 on hand in the Mercantile Bank.

The following bills were ordered paid:

St. Francis Hospital	$108.00
Wolfies Restaurant	23.71

Chris Dundee has scheduled a fight for the evening of March 23rd as follows:

Otha Brown-Floyd McCoy	10 rds 3 mins.
* Jefferson Davis-Chip Johnson	10 rds 2 mins.
Chico Velez-Willie McCrea	8 rds 2 mins.
Stormy Winters-Jack Gilbert	4 rds 2 mins.
Joe Nardi-J. C. Ponder	6 rds 2 mins.
Bobo Davis-Stu Duncan	4 rds 2 mins.

The secretary informed the Commission that in his recollection there has been some trouble between Jefferson Davis and his manager Jack Kearns. The sec'y was instructed to get a clearance from Mr. Kearns.

* Secretary's note: I called Mr. Kearns on Wed. March 18th and was informed that it was perfectly OK with him to have Davis sign his own contract for this fight.

The above mentioned fights were approved.

Chairman Klein then informed the members of the Commission that they have all been invited to appear in the office of the Ass't State Attorney Sy Gelber on Wednesday morning, March 18th at 10 a.m. relative to the investigation of the Liston-Clay match.

Discussion then took place regarding the fine set on Cassius Clay. The secretary said that this office had not received any reply from Mr. Faversham in answer to the telegram sent to him on Feb. 25th informing him of the fine. On the question of the fine, Commissioner Lassman asked that this Commission take no action for the next 30 days and asked that the entire matter be tabled. This was seconded by Commissioner Roth.

Some discussion took place relative to some of the statements made by Liston's doctor, Dr. Bennett which had appeared in print purportedly stating that Liston was not in top physical shape for several days before the fight. No action was taken since the article in question was not available. Commissioner Gardner was asked to bring a copy of the article back from the State's Attorney's office . . . and then the secretary would write a letter to the Michigan State Athletic Commission asking them to get a statement from Dr. Bennett.

* * * * *

APPENDIX F

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 29404

INTER-CONTINENTAL PROMOTIONS, INC.,

Plaintiff-Appellee,

versus

THE MIAMI BEACH FIRST NATIONAL BANK and FRED R. BAISDEN, as Executors of the Last Will and Testament of William B. MacDonald, Jr., deceased, Etc.,

Defendants-Appellants.

Appeals from the United States District Court
for the Southern District of Florida

Before GEWIN, COLEMAN and AINSWORTH, Circuit Judges.

By The Court:—

It Is Ordered that the motion for certification to The Supreme Court of Florida filed by Appellee in the above cause is hereby Denied.

APPENDIX G

RESOLUTION No. 11167

WHEREAS the City Council of the City of Miami Beach, Florida, has been advised that DUNDEE-MacDONALD ENTERPRISES, INC. desires to lease the premises and facilities of the Miami Beach Convention Hall for the purpose of WORLD HEAVYWEIGHT CHAMPIONSHIP BOXING on FEBRUARY 25, 1964, and

WHEREAS a lease agreement has been prepared by the Auditorium and Convention Hall Manager and approved as to form by the City Attorney, and

WHEREAS the City Council has been advised of and is familiar with the terms and provisions of the said lease agreement and deems it to be for the best interest of the City to authorize the execution of the said lease agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and the City Clerk be and they are hereby authorized and directed to execute the above described lease agreement on behalf of the City, and that the Auditorium and Convention Hall Manager is hereby authorized and directed to carry into effect the terms and provisions undertaken therein by the City.

PASSED AND ADOPTED this 19th day of February, 1964.

/s/ Melvin J. Richard
Mayor

Attest:

/s/ Rubin L. Johnson
City Clerk
(Seal of clerk illegible.)

WITNESS my hand and the seal of said City, this 29th day of April A.D. 1969

Ruth B. Rouleau
City Clerk & Finance Director
of the City of Miami Beach,
Florida
by /s/ (Illegible) Pohzehl
Deputy City Clerk and Finance
Director

APPENDIX H

DUNDEE-MacDONALD ENTERPRISES, INC.

December 26, 1963

Veterans of Foreign Wars Post 3559
Mr. M. Lencher, Commander
440 - 16th Street
Miami Beach, Florida.

Dear Mr. Lencher:

We wish to confirm our understanding with you in that Dundee-MacDonald Enterprises, Inc. will contribute $500.00

to the Veterans of Foreign Wars Post 3559 with sponsorship and use of your name with the Liston-Clay World's Heavyweight Championship bout to be held at the Miami Beach Convention Hall on the evening of February 25, 1964.

Very truly yours,

/s/ Chris Dundee,
Chris Dundee, General Manager

FJL/h
cc: Wm. B. MacDonald, Jr.